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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/062,714	04/20/1998	NEIL S. ROTHMAN	212/219	3372

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CROCKETT & CROCKETT
24012 CALLE DE LA PLATA
SUITE 400
LAGUNA HILLS, CA 92653

EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 10/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary

Application No.

09/062,714

Applicant(s)

ROTHMAN ET AL.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 and 12-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-8 and 12-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 6, 12, 21, 22, 23, 24, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman et al. in view of Warwick et al. Newman teaches a belt sized to circumferentially fit around the chest of a patient to cover substantially the entire width and superior-inferior length of the sternum. Newman also teaches a bladder 18 as composing a sheet 30 of nonextensible material and sheet 32 that may be composed of a material similar to the sheet 30. Therefore the bladder of Newman is composed of a material that is inextensible as claimed. While the bladder of Newman may not include a top and bottom panel, such is well within the realm of the artisan of ordinary skill to have a separate bladder from the external sheet. Warwick teaches such a convention with a vest having shell 14 with a bladder 16 between the shell and the chest. Likewise, Warwick teaches the vest can be made of nonstretch cloth material. It would have been obvious to one of ordinary skill in the art to modify Newman to use separate top and bottom panels for the bladder as taught by Warwick to provide a more durable vest.
2. Claims 7, 13, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above and further in view of Sandman. Sandman teaches the convention of using nylon material coated with polyurethane. It would have been obvious to one of ordinary skill in the art to further modify Newman to use polyurethane coated nylon as taught by Sandman as an obvious air impervious material to complete the Newman device.
3. Claims 8, 14, 15, 16, 17, 26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Curlee.

There is no unobviousness to the shape of the device. It would have been obvious to have the inflatable portion larger than the belt portion so as to reduce the amount of material used for the belt. Curlee teaches such a convention. It would have been obvious to one of ordinary skill in the art to further modify Newman to shape the belt to be of less dimensions than the inflatable part as taught by Curlee to reduce the amount of material used.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Huxley III, et al. Huxley teaches the convention of using a removable bladder so as to be able to replace the bladder. It would have been obvious to one of ordinary skill in the art to further modify Newman to removably attach the bladder as taught by Huxley so that the bladder can be replaced.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 18 above and further in view of Sandman. Sandman teaches the convention of using nylon material coated with polyurethane. It would have been obvious to one of ordinary skill in the art to further modify Newman to use polyurethane coated nylon as taught by Sandman as an obvious air impervious material to complete the Newman device.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 18 above, and further in view of Curlee. There is no unobviousness to the shape of the device. It would have been obvious to have the inflatable portion larger than the belt portion so as to reduce the amount of material used for the belt. Curlee teaches such a convention. It would have been obvious to one of ordinary skill in the art to further modify Newman to shape the belt to be of less dimensions than the inflatable part as taught by Curlee to reduce the amount of material used.

Double Patenting

7. Claims 6, 12, 21, 22, 23, 24, 27 and 30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,769,800. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to leave out the details of the bladder chest panel.

8. Claims 7, 13, 25 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,769,800 as noted above in view of Sandman. Sandman teaches the convention of using nylon material coated with polyurethane. It would have been obvious to one of ordinary skill in the art to further modify the patent to use polyurethane coated nylon as taught by Sandman as an obvious air impervious material to complete the patent.

9. Claims 8, 14, 15, 16, 17, 26 and 29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,769,800 as noted above in view of Curlee. There is no unobviousness to the shape of the device. It would have been obvious to have the inflatable portion larger than the belt portion so as to reduce the amount of material used for the belt. Curlee teaches such a convention. It would have been obvious to one of ordinary skill in the art to further modify the patent to shape the belt to be of less dimensions than the inflatable part as taught by Curlee to reduce the amount of material used.


10. Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,769,800 as noted above in

view of Huxley III et al. Huxley teaches the convention of using a removable bladder so as to be able to replace the bladder. It would have been obvious to one of ordinary skill in the art to further modify the patent to removably attach the bladder as taught by Huxley so that the bladder can be replaced.

11. Claim 19 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,769,800 as noted in claim 18 above in view of Sandman. Sandman teaches the convention of using nylon material coated with polyurethane. It would have been obvious to one of ordinary skill in the art to further modify the patent to use polyurethane coated nylon as taught by Sandman as an obvious air impervious material to complete the patent.

12. Claim 20 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,769,800 as noted in claim 18 above in view of Curlee. There is no unobviousness to the shape of the device. It would have been obvious to have the inflatable portion larger than the belt portion so as to reduce the amount of material used for the belt. Curlee teaches such a convention. It would have been obvious to one of ordinary skill in the art to further modify Newman to shape the belt to be of less dimensions than the inflatable part as taught by Curlee to reduce the amount of material used.

ddd
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☎ (703) 308-3713
Fax: (703) 305-3590
danton.demille@uspto.gov


Danton DeMille
Primary Examiner
Art Unit 3764